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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/615,281	07/13/2000	James A. Foltz	CIL-10514	3829

7590 04/15/2005  
JOHN P. WOOLDRIDGE, ESQ.  
252 KAIPII PL  
KIHEI, HI 96753

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</b>	<b>Application No.</b> 09/615,281	<b>Applicant(s)</b> FOLTA, JAMES A.	
	<b>Examiner</b> Steven R Garland	<b>Art Unit</b> 2125	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 05 January 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file a complete new brief in compliance with 37 CFR 41.37 within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☒ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See attachment.

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Attachment to Paper No. 03312005

*In regards to 1 note that section headings such as " Summary of Claimed Subject Matter " and " Grounds of rejection to be reviewed on appeal" are now required under the rules, see 37 CFR 41.37(c).*

*In regards to item 2, the status of all claims must be given even for canceled claims.*

*In regards to item 3, The amendment filed 1/5/05 with this appeal brief is denied entry since it was filed on the same date as the appeal brief. See 37 CFR 41.33(b) The indication that it was being entered in the Advisory action mailed 2/7/05 is withdrawn, since it can not be entered under the rules. The denied entry of the after final amendment should be included in the Status of the amendments section of the brief.*

*In regards to item 4, the explanantion must comply with the requirements under 37 CFR 41.37 (c)(1)(v) and which requires the use of page and line number references in the explanation.*

*In regards to items 5 and 6, the rejection of claims 11-18 under 35 U.S.C. 112 2nd paragraph in the final rejection is maintained in view of the denied entry of the after final amendment and as a result the rejection under 35 U.S.C. 112 2<sup>nd</sup> paragraph must be addressed in the brief. Also as to which section, such as 35 U.S.C. 103(a,) the claims are rejected under should be mentioned in the concise statement.*

*In regards to item 7, In view of the denied entry of the after final amendment the copy of the appealed claims in the appendix is incorrect.*

Also note that only one copy of the appeal brief is now required under 37 CFR 41.37.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R Garland whose telephone number is 571-272-3741. The examiner can normally be reached on Monday-Thursday.

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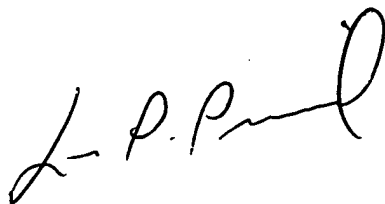
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on 571-272-3749. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SRG

Steven R Garland  
Examiner  
Art Unit 2125

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**LEO PICARD**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2100**